

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
EASTERN PROFIT CORPORATION LIMITED, : 18-CV-02185 (JGK)
:
Plaintiff, :
:
v. :
:
STRATEGIC VISION US LLC, et al., : 500 Pearl Street
: New York, New York
:
Defendants. : January 16, 2020
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TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE
BEFORE THE HONORABLE DEBRA C. FREEMAN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 THE COURT: Hello, it's Judge Freeman.

2 MR. GREIM: Judge Freeman, this is Mr. Greim. We do
3 have all the parties on the line now.

4 THE COURT: Oh, all the non-parties?

5 MR. GREIM: Yes. Both sets of non-parties who are,
6 you know, relevant to this call as well as opposing counsel
7 Eastern Profit.

8 THE COURT: All right. So let me just go down the
9 line. Who do I have for Eastern Profit?

10 MR. CHUFF: Chris Chuff, Your Honor, from Pepper
11 Hamilton.

12 THE COURT: Okay. And who do I have for Mr.
13 Guo and Golden Spring?

14 MR. HARMON: This is Mark Harmon, Your Honor, for
15 Mr. Guo, Golden Spring, and Yvette Wong [Ph.].

16 THE COURT: Okay. And who do I have for Mr. Je?

17 MR. GAVENMAN: This is Jeff Gavenman for Mr. Je.

18 THE COURT: I'm sorry. Tell me your name again.

19 MR. GAVENMAN: Jeff Gavenman, G-A-V-E-N-M-A-N.

20 THE COURT: Okay. For those of you who may not have
21 been on prior calls with me, I do have recording capability
22 and I'm attempting to use it so you can have a record. You
23 can get a transcript if you want. But it is my desire to go
24 through all of the subpoenas that are out there and address
25 whether they should be responded to or not so that we can get

1 to the close of discovery in this case.

2 I am aware of six subpoenas. Is that right, Mr.
3 Greim? Are there six subpoenas? I have an AT&T, I have four
4 for Google, and I have a GoDaddy.

5 MR. GREIM: Your Honor, I believe that's right.
6 I've got them listed by the accounts we're seeking.

7 THE COURT: Well, the two Google ones are YouTube
8 and two Google ones are Gmail.

9 MR. GREIM: I believe that's right.

10 THE COURT: Okay. Well, let me start with the one
11 that is the easiest which is one of the Google Gmail subpoenas
12 where the date of the subpoena is November 26. That would be
13 I think for -- involving Mr. Je. That one seems to me to be
14 untimely as served just within three days of the close of
15 discovery with it not being reasonable time for compliance a
16 within discovery period. Even if I'm not a stickler for it
17 has to be, you know, well in advance of that deadline, that
18 seems to me to be too close. So that one just seems to me to
19 be untimely.

20 The GoDaddy subpoena, I do not think I have a copy
21 of it so I don't know the date of the subpoena or the date
22 when compliance was sought. Can you please tell me what the
23 date of that subpoena was and what its return date was?

24 MR. GREIM: Yes, I believe we can. It'll take just
25 a second here. The date is November the 4th and October the

1 31st.

2 THE COURT: I'm sorry.

3 MR. GREIM: And --

4 THE COURT: One sec. October 31st is the date of
5 the subpoena and the compliance --

6 MR. GREIM: Yes.

7 THE COURT: And the compliance date was November 4?

8 MR. GREIM: No, I'm sorry. There were two different
9 subpoenas to GoDaddy. One was October 31, and one was October
10 4th.

11 THE COURT: October 4 or November 4?

12 MR. GREIM: I'm sorry, I'm sorry. November 4.
13 November 4.

14 THE COURT: All right.

15 MR. GREIM: So let me --

16 THE COURT: I don't have -- I don't think I have
17 copies of any GoDaddys being -- in all of the voluminous
18 materials that have been submitted to this Court, there's like
19 huge stacks of material, I don't -- I was not able to find any
20 GoDaddy subpoenas much less more than one. I wasn't -- I
21 didn't even know there were more than one.

22 MR. GREIM: Okay. Well, we do -- Your Honor, we do
23 have two of them. They may be exhibited to -- we didn't
24 include them because the first filing on this was done by Ms.
25 Teske for Hodgson Russ. And so there may be exhibits for that

1 filing.

2 THE COURT: I don't believe --

3 MR. GREIM: But we are running --

4 THE COURT: I don't believe so. I could be wrong
5 because we've looked at all of the exhibits. But are these
6 two GoDaddy subpoenas looking for accounts for two different
7 individuals? Is it one for Mr. Je and one for Mr. Guo?

8 MR. GREIM: No. I'll tell you exactly. So let's
9 start with the October 31 subpoena, Your Honor. That one
10 requested registration information for four domains. The
11 first is guo.media. The second is goldenspringgroup.com. The
12 third is acacapital.com. And the fourth is rolfoundation.org.

13 THE COURT: And what was the second one?

14 MR. GREIM: Goldenspringgroup.com

15 THE COURT: No, no, no. The second subpoena.

16 MR. GREIM: Oh, I'm sorry. Okay. Second is
17 November 4th and that request also registration information
18 for four domains: ruleoflawsociety.org,
19 ruleoflawfoundation.info, saracamedia group.com, and
20 saracamedia.com.

21 THE COURT: And when you say registration
22 information, what information in particular are you looking
23 for?

24 MR. GREIM: It would be the person who set it up.
25 It would be the recovery number, it would be the IP address

1 from which it was started, and then I believe it would be the
2 IP information from which it was accessed. But let me just
3 tell you -- so let me go into the documents to be produced to
4 make sure I didn't miss something here just now. I've got one
5 of them pulled up.

6 So it's documents sufficient to show identifying
7 information for the person or persons who registered the
8 domain name, including names, company names, addresses, phone
9 numbers, and e-mail addresses. That's number one. Number two
10 reports or other information associated with the domain names
11 including underlying registrant data if it was shared with law
12 enforcement or government bodies --

13 THE COURT: I'm sorry. If it was --

14 MR. GREIM: -- [inaudible].

15 THE COURT: If it was shared, what does that mean?
16 You want to know the answer of whether it was shared or you
17 only want it if it was shared?

18 MR. GREIM: We want it if it was shared.

19 THE COURT: And if it was not shared then you don't
20 want the information?

21 MR. GREIM: Correct because they wouldn't have
22 generated that report. In other words, we want reports that
23 were shared. I mean there wouldn't be such a thing as a
24 report that wasn't shared.

25 THE COURT: So you want reports? And what would

1 these reports have?

2 MR. GREIM: They would have registrant data. They
3 would have information about who had registered, from where
4 they had registered, and I think from where they have
5 accessed. But I'm not entirely sure exactly everything that's
6 in that report. I simply know that, and I think this is
7 right, that there are no such documents to be produced. In
8 other words, there's no -- that [inaudible] --

9 THE COURT: GoDaddy has told you for all eight of
10 these domains there are no reports?

11 MR. GREIM: Let me -- okay, no, actually we don't
12 know that. We don't know that, Your Honor.

13 THE COURT: So what were you talking about?

14 MR. GREIM: It's possible.

15 THE COURT: What were you talking about, somebody
16 told you there are no reports on some account somewhere?

17 MR. GREIM: No, no. I just misunderstood. I'm
18 trying to -- I have a lot of stuff here. I just
19 misremembered. I checked with a colleague here and I was
20 wrong about that.

21 THE COURT: Okay.

22 MR. GREIM: Okay. So that was two.

23 THE COURT: All right. And I'm assuming the other
24 GoDaddy subpoena asking -- is there more information you're
25 asking for besides who registered --

1 MR. GREIM: Yeah.

2 THE COURT: What else are you asking for?

3 MR. GREIM: Yes. I'll just quickly run through so
4 we've got a record here: all documents including but not
5 limited to any reports of abuse related to suspected or actual
6 violations by domain names and policies in the service
7 agreement. And then I'll just go -- this is going to take a
8 while so I'll just --

9 THE COURT: What is the relevance of all of this?

10 MR. GREIM: Well, Your Honor, what we're trying to
11 get is we're trying to find out who actually set up and
12 maintained these accounts and which is important. I mean no -
13 -

14 THE COURT: Okay. Who set up and maintained an
15 account is not this whole long list of everything you're
16 reading to me. Who set up and maintained the account is who
17 set up and maintained the account.

18 MR. GREIM: Right. But, Your Honor, we tried to use
19 a technical form here. And I mean we could have said that --

20 THE COURT: What does that mean? What does --

21 MR. GREIM: -- [indiscernible] have a long
22 discussion with GoDaddy about --

23 THE COURT: Wait a minute. I'm sorry.

24 MR. GREIM: -- what kind of records they keep.

25 THE COURT: I'm sorry.

1 MR. GREIM: [Inaudible].

2 THE COURT: Mr. Greim, reports of abuse related to
3 suspected violations is not a technical form that GoDaddy
4 would need to understand that what you're looking for is who
5 set up the account. Who set up the account is in plain
6 English --

7 MR. GREIM: Your Honor --

8 THE COURT: -- who set up the account, who's the
9 registrant.

10 MR. GREIM: Well, I mean if this will be a reason --
11 I mean what I'm willing to do is say this, we want to know who
12 set up and maintained the account and then here's the other
13 piece I didn't have a chance to get to. We want to know from
14 what IP -- you know, what IP addresses are they using to do
15 this.

16 THE COURT: Right. But didn't you tell me long ago
17 and repeatedly that you are not looking for geographical
18 location information and didn't we have a conversation and we
19 talked about the fact that the IP address information can be
20 used to identify geographic location and that that was not
21 something you were interested in? And if that is not what
22 you're interested in, why are you interested in the IP
23 addresses?

24 MR. GREIM: But, Your Honor, there's two different
25 things. My understanding is geographical tracking information

1 is something very specific. I don't actually know what's
2 included in that, I'll just tell you, but it's with
3 something's been communicated to every single one of these
4 recipients that we are not trying to get. But the
5 conversation we had before, Your Honor, is that we are seeking
6 IP information because that at least tells you the general
7 location. Like, for example, was somebody -- was an
8 authorized user for Guo.media accessing Guo.media from
9 mainland China. I mean and, frankly, we have found some
10 interesting information on that point with some other
11 subpoenas that we have here.

12 And so that's what we're trying to find. It's not
13 -- I mean I understand the issue with geographical tracking
14 location where --

15 THE COURT: I'm sorry. Did these other subpoenas
16 involve these same non-parties who are on the call and do they
17 know about the information that was obtained?

18 MR. GREIM: Yes. Guo -- there is one subpoena to
19 Cloudflare that involves Guo Media. Now many many questions
20 many many times counsel for Guo and Golden Spring have told us
21 over and over again they do not represent Guo Media. And Guo
22 claims, in fact, not to own or even know who owns Guo Media,
23 although we think the evidence will be overwhelming that
24 that's not correct.

25 But nonetheless, we did find information on Guo

1 Media from our Cloudflare subpoena. And in fact, we found --
2 let me go to -- I've got a little --

3 THE COURT: Okay. Don't forget we're focused on the
4 claims and defenses raised in the litigation in front of me.
5 Guo --

6 MR. GREIM: Correct.

7 THE COURT: Guo is not even a party. Guo Media is
8 not a party. You know, in order for you to make these
9 connections that Mr. Guo on behalf of Eastern Profit
10 fraudulently induced Strategic Vision to enter into a contract
11 the idea that Guo Media was accessed from China, for example,
12 you're going to have to put those pieces together. And as
13 I've questioned you many times, just finding something
14 interesting is not the test for discovery, okay? So you're
15 looking --

16 MR. GREIM: [Indiscernible].

17 THE COURT: You're looking for a tremendous amount
18 of information from a tremendous number of suppliers including
19 information that would enable you to find geographic location
20 even though you said you don't want geographic tracking data,
21 but what you're looking for is the same thing through these IP
22 addresses as far as I can tell which is where were people at
23 the time that they did certain things at certain times.
24 Otherwise, I don't know why you would care about the IP
25 addresses. So --

1 MR. GREIM: [Inaudible].

2 THE COURT: Okay. So I understand that you might
3 want to understand who was behind a YouTube account where you
4 found something posted that you thought was relevant. Even
5 for authentication purposes, I understand that. But you're
6 looking for a tremendous amount of material, billing records,
7 all kinds of other kinds of records and whether you've made it
8 clear to providers you're not looking for tracking
9 information, the subpoenas all contain that information.

10 So you're going to have to make a showing to me that
11 this connects to your counterclaim in some kind of coherent
12 way where it outweighs the breadth of these subpoenas and, you
13 know, makes sense at this stage of the game. And don't forget
14 we're supposed to be doing last bits of finishing up loose
15 ends of discovery where you had thought it really wouldn't be
16 very much and we'd kind of be at the end of the road, right.
17 So this is not a whole new -- it's not supposed to be a whole
18 new trek with whole new large volumes of material leading to
19 who knows what, okay?

20 Let me hear from --

21 MR. GREIM: Your Honor, I understand all of that. I
22 mean and I agree with -- we're on the same page with all of
23 that. I mean these went out the door in, as I said, October
24 31 and November 4th. And let me make that connection. Let me
25 make the connection.

1 So Guo -- you know, obviously, as you said, he is no
2 longer a party in this case. He did not choose to replead an
3 alter ego theory. Nonetheless, it is his statements about
4 himself that matter for the Eastern Profit's fraud claim.
5 That's been admitted in this case. And so then the question
6 is, well, what are the -- you know, what things prove or
7 disprove, make it more or less likely that Guo is a dissident
8 and we talked about different ways of proving that. One area
9 has been, you know, flows of money. And, frankly, some of
10 those flows of money also are really for breach of contract
11 claim that this supposed loan that they're basing their, you
12 know, restitution claim on we're saying is the sham
13 transaction because it's really just one entity. But I won't
14 go into that.

15 THE COURT: Her to the subpoenas.

16 MR. GREIM: You've probably heard it like 20 times
17 from me. So let me go back.

18 THE COURT: Get to the subpoenas.

19 MR. GREIM: Okay. So, what we know is that there
20 are a few websites out there, a couple I -- you know, let me
21 be specific -- a couple of YouTube channels that supposedly,
22 you know find secret things about Guo or they alter things and
23 they are sources that are controlled by the Chinese party.
24 That's at least the allegation.

25 As we said in our letter, those are Guo's supposed

1 tormentors. And so I know I'm shifting from GoDaddy for a
2 second here, but it's necessary to understand this whole
3 thing. And so a couple of the YouTube channels that we are
4 trying to unmask to see who's actually running those and who's
5 the registrant for those --

6 THE COURT: Let me interrupt you, okay.

7 MR. GREIM: Thank you.

8 THE COURT: I already said I understand if you might
9 want to -- that you might want to know who's registered or has
10 uploaded information to YouTube sites where that information
11 is something that you want to use in this case even just for
12 authentication purposes. I understand that. What I said I
13 don't understand is why you are looking for information far
14 beyond who the registrant is of those YouTube sites with all
15 of these subpoenas and why all of this other information
16 you're seeking is relevant to your -- relevant to claims to
17 defenses or counterclaims and not disproportionate.

18 MR. GREIM: Okay. Okay. So let me -- well, I
19 understand that, but it's important to understand at the
20 outset that we've got -- that we hope to get data from these
21 other two websites that I can't -- I'm sure no one here is
22 claiming that they represent, okay. But we expect to get that
23 from these subpoenas.

24 And so the first thing I would say is it will be --
25 we believe there is an excellent chance that the registration

1 information and the IP addresses being used to load data onto
2 those may well match up with the domains that are controlled
3 by Guo which would -- you know, we were to prove that, we
4 would now be able to see that the supposed tormentors that Guo
5 has never himself tried to unmask any of his lawsuits actually
6 share administrators and accessors with his own websites. But
7 that's not all. I mean that would be -- I would like to be
8 able to show that. I can't tell you that we already know
9 we'll be able to show that. So let me go further.

10 THE COURT: So you want to be able to show -- you
11 are hoping that you will be able to show that an IP address
12 that didn't access, meaning view a website but an IP address
13 associated with the registrant of a website --

14 MR. GREIM: Yes.

15 THE COURT: -- is the same IP address associated
16 with the registrant of another website, one being Guo-friendly
17 and one supposedly not being Guo-friendly?

18 MR. GREIM: Correct. That's piece A, part A. But
19 the other piece of this, as we've already found on our
20 Cloudflare subpoena is that Guo Media has what's called for
21 the lack of a better word sort of a super administrator. So
22 there are different accounts that you can see on there that
23 are the, quote, administrator of that account. And the other
24 thing you can see is where are they sending invoices for that
25 account.

1 So for Guo Media, at least the one that is covered
2 by Cloudflare, we can see that the IP address for the
3 administrator of that actually is at China Golden Spring. So
4 that's the first interesting point. Remember we talked about
5 China Golden Spring back when we were trying to get to ACA and
6 William Je and just couldn't find any way to find an agent or
7 even somebody who would say they'd represent these folks. So
8 remember China Golden Spring is the kind of mother ship that
9 is the family office for Guo based in Hong Kong. That's who
10 Yvette Wong says she got instructions from on the Eastern
11 Profit contract.

12 So we now learned that the IP administrator at China
13 Golden Spring is the person who created the Cloudflare account
14 for Guo Media. So right there we can see that this is not
15 just some independent entity that Guo knows nothing about. It
16 doesn't definitively prove things, but that's not our standard
17 for discovery. Okay, so that's point one.

18 Then we can see that they are sending all of their
19 invoices all the way through mid-August of 2018 to Golden
20 Spring Hong Kong when supposedly these assets in Hong Kong are
21 frozen, they're being -- at least being sent to Hong Kong
22 Golden Spring. This is for Guo Media, supposedly a U.S.
23 entity that is just interested in Guo. Next, we see that
24 there is a super administrator and there is a lead user for
25 that account. And that's the person who kind of controls

1 access and privileges for all other people. That person works
2 at a Hong Kong-based marketing company which itself does
3 substantial business on the mainland.

4 Then we see that -- let's see, I'm sorry, I'm just
5 going through my notes here -- that the super administrator
6 uses IP addresses in the U.S. and Hong Kong. And, finally,
7 several other users, and this is maybe the most important
8 point, of Guo Media -- this is not people who just happen to
9 click on it to see what's on there, these are actual people
10 who are authorized to run Guo Media -- are actually based not
11 only in Hong Kong but they're also in mainland China.

12 THE COURT: I'm sorry. In your understanding, what
13 is Guo Media and what is its relevance to the case?

14 MR. GREIM: Guo Media is sort of the messaging arm
15 for Guo. Now, again, I will acknowledge Guo at his deposition
16 denied it. He denied --

17 THE COURT: And you believe that that is the case
18 because even though he denied it, you believe that for some
19 other reason?

20 MR. GREIM: Well, I mean for starters it's called
21 Guo Media, and if you just look at the content, it largely
22 consists of his own YouTube videos. But of course it's hard
23 to authenticate when he claims that, you know, it's some other
24 entity that somehow gets his stuff and he's not sure. And I
25 will also say the president of Guo Media's no other than Han

1 Chunguang, the man who's also the president supposedly or at
2 least the person who controls Eastern Profit in our case.

3 But, nonetheless, we also saw that the person who
4 actually set up Guo Media, that's one of the points I
5 mentioned earlier, the IP address for that IP -- is for the IP
6 administrator at China Golden Spring which is in Hong Kong.
7 So I mean, yes, he has denied it. We don't think that denial
8 is credible. I mean he's denied even knowing who owns Guo
9 Media. It just seems hard to believe that somebody who's so
10 diligently sort of polices speech about himself would really
11 know nothing about who owns Guo Media, but you know that's
12 what he said.

13 Nonetheless, it should never be the case that Guo
14 Media who has actually set up and run with his own China
15 Golden Spring people had people in the mainland who have
16 authority to run the website. That should not -- if his
17 family members have been arrested, if he can't go there
18 himself, I he's a dissident, how can it possibly be that
19 people on the mainland are running Guo Media? And so that's a
20 sample of what we got from the Cloudflare subpoena.

21 So that's a second reason why it is very
22 interesting. You know, we're not getting people's internal
23 communications. We're just finding the sort of nuts and bolts
24 data that cannot lie. I mean who set this up, from where are
25 they accessing it, the people that actually have authority to

1 access that website, and, you know, is it all the same group
2 of people?

3 THE COURT: You have quite a number of accounts that
4 you're looking for. I mean just with the GoDaddy you've
5 identified I think it was eight separate accounts. So they're
6 not all Mr. Guo's, they're not all Guo Media.

7 MR. GREIM: Correct, but there are --

8 THE COURT: And with each one that is going to
9 require another explanation as to why you're going after some
10 other entity's account information.

11 MR. GREIM: Well, the other entities, though, are --
12 so I had mentioned two that were Saraca. Saraca Media -- Guo
13 Media is a DBA for Saraca Media Group. And so that's three of
14 the eight, actually, that are Guo Media. Saraca Media Group
15 is the entity that we know, for example, that Mr. Bannon
16 entered into a deal with and that probably is the entity that
17 paid him to make these appearances with Guo. So that's three
18 of our eight. We have Golden Spring Group itself which is,
19 you know, in this very case the agent of Eastern Profit. They
20 were appointed to litigate this case for Eastern Profit, so
21 they're very much a part of this case. They're Guo's family
22 office as we learned in our deposition of Golden Spring.

23 ACA Capital we know why they're relevant. That is
24 the William Je entity that we believe is funding this
25 operation. And, finally, we've got the Rule of Law entities.

1 Those are the non-profit arms that Guo has set up to, as he
2 says, expose corruption. And we had a witness who had just
3 resigned from Rule of Law Society, the twin of Rule of Law
4 Foundation who told us about how that entity operates and, you
5 know, essentially that's the entity that Guo said he would
6 fund with \$100 million and that would speak out, essentially
7 do the publicizing work that I think Guo thought he would do
8 with Strategic Vision.

9 So we know that he has something that many many
10 shale companies that do many things. It shows the circle of
11 entities that are most likely to, you know, have people who
12 are accessing it now and that are tied to the facts of our
13 case.

14 THE COURT: Who --

15 MR. GREIM: And I would also point out that nobody
16 represents, nobody on this call represents any of these
17 entities. I mean the objections are coming from people who
18 don't represent any of these groups.

19 THE COURT: Well, for me to hear objections, the
20 first thing that I need to determine is standing. And so if
21 there is personal information, private information for any of
22 the individuals or entities represented on this call by
23 counsel where you think that the subpoenas would divulge that
24 sort of information where your clients have interest, then
25 I'll find that there's standing to challenge them.

1 If you don't speak for the entities, if the
2 individuals do not have a personal interest, for example, if
3 counsel for Mr. Guo says Mr. Guo is not in fact affiliated
4 with Guo Media and knows nothing about Guo Media and what they
5 do and who runs it, then presumably the registrant information
6 and so on and so forth would not be Mr. Guo's information,
7 would not have an impact on Mr. Guo, and there would be no
8 standing to challenge that. So the first thing I need to
9 understand for each of these subpoenas is who actually has
10 standing to challenge them who has made an objection.

11 So can I run down those subpoenas and -- or maybe
12 I'll start with counsel and tell me which subpoenas are you
13 challenging and are there any that you're not? So starting
14 with Mr. Harmon, which ones are you challenging and which ones
15 are you not?

16 MR. HARMON: Thank you. I want to get to your
17 question, Your Honor, but I want to, if I may, just start off
18 with a general statement of my disquiet that what's been going
19 on here is that Mr. Greim on behalf of Strategic Vision has
20 been issuing subpoenas for vast amounts of information that I
21 think is clearly beyond the scope of anything to which he'd be
22 entitled to which he needs relating to any person or entity
23 that Strategic Vision thinks may have some relationship to Mr.
24 Guo. And that in some instances such as the GoDaddy
25 subpoenas, we haven't seen them. If we hadn't serendipitously

1 found out that GoDaddy was going to comply and objected, then
2 all of the information that you pointed out is beyond the pail
3 for production would already have been provided to Strategic
4 Vision including regarding Golden Spring which is a client of
5 ours.

6 No, I do not represent ACA. I do not represent Guo
7 Wengui. I have not appeared on behalf on Saraca. Those are
8 not entities for which I speak. But it's very discomfoting
9 to think that Strategic Vision has been using the umbrella of
10 this action to send out subpoenas for all of this personal
11 information, all of this tracking information, all of this IP
12 address information that we've discussed and using it for that
13 purpose because they believe they have an excellent chance and
14 hope of showing something. And in the meantime based upon
15 believing that they have an excellent chance, they're amassing
16 all of this personal information in a case in which they have
17 made it clear from the outset that their goal is to hold Mr.
18 Guo accountable [inaudible].

19 THE COURT: All right. Can I interrupt you? I have
20 a need to parse this, okay. I can no longer deal with broad
21 statements. I need to parse it. So the first thing I'm going
22 to do is say this. If it's a subpoena for Mr. Guo's records,
23 if it's a subpoena for Golden Spring's records or for Yvette
24 Wong's records, someone you represent, okay, and if you can
25 maintain that there -- and if you maintain that there is a

1 privacy interest in the records being sought, then I will find
2 that you have standing to challenge those particular
3 subpoenas. If it's a subpoena for the records of an entity
4 like ACA or like Guo Media or some other entity and you cannot
5 tell me that any of your clients, including Mr. Guo, have a
6 persona interest in that material, then you -- somebody else
7 might have standing to challenge it but you would not and,
8 therefore, I can't hear your objections.

9 There is a separate issue as to whether people who
10 have potential interest in the subpoenaed information have
11 been notified of the subpoena so they have an opportunity to
12 raise objections. What's already done is done. The only
13 thing that I can say there is that it might make sense for Mr.
14 Greim to inform counsel on this call as to what other
15 subpoenas have been served or have been responded to, are out
16 there where no objection has been made so that if anybody here
17 would have standing to object, they can still move to have the
18 information, you know, returned or destroyed or stricken or
19 something.

20 But with respect to the ones I know about, I have an
21 AT&T subpoena; I have two Google subpoenas regarding YouTube,
22 one from YouTube accounts, one from October 31 and one from
23 November 4; I've got two directed to Gmail, one from November
24 4 and one from November 26; and I have two GoDaddy subpoenas
25 that have been discussed. So the first thing I need to

1 understand, Mr. Harmon, is which of those do you have standing
2 to challenge on behalf of your clients and whose information
3 is it that's at issue so that I can understand the basis of
4 the standing?

5 MR. HARMON: Thank you. I appreciate that and I
6 appreciate your letting me go off a little bit before that. I
7 do want to say that I suspect that if Rule of Law and Saraca
8 knew that their information was being requested like this,
9 they would have objected, but I don't know how they could have
10 known that these subpoenas were issued because we have never
11 seen the GoDaddy subpoenas and now I'm hearing that at least
12 some of the information sought on the GoDaddy subpoenas
13 relates to Golden Spring New York which is a client of mine
14 and on behalf of which we object.

15 That would also be true with regard to the Google
16 accounts for e-mails of Mr. Guo and Yvette Wong. The AT&T
17 subpoenas that involve phone numbers for Yvette Wong had
18 Golden Spring employees and Mr. Guo. I understand that the T-
19 Mobile subpoenas has already been complied with,
20 notwithstanding out initial original objections. And I
21 understand that a subpoena to LinkedIn for personal
22 information regarding Karin Maistrello to which we objected
23 and it has been withdrawn.

24 I hope that I've covered all the subpoenas. If I
25 haven't --

1 THE COURT: Well, let's start with the --

2 MR. HARMON: I also -- I'd like to question the
3 statement that Mr. Guo denied knowing or using Guo Media. I
4 think he denied knowing who owns it. But I do not believe
5 that Mr. Guo's testimony has been that he has no idea what Guo
6 Media is or doesn't use it to post videos. So if one of the
7 bases of relevance here is that Mr. Guo has denied any
8 knowledge of Guo Media, I hadn't prepared for that so I don't
9 think that's been raised before this call. But I don't
10 believe that to be accurate.

11 THE COURT: Well, I will say that a lot of the
12 arguments being made by Mr. Greim are not ones that we saw in
13 the papers that were submitted. So, you know, there was some
14 information about wanting to show that sites were accessed
15 from mainland China, but we didn't --

16 MR. HARMON: Your Honor, that's a subpoena that we
17 had no knowledge of before this phone call.

18 THE COURT: Which one, I'm sorry?

19 MR. HARMON: We did not know that they obtained
20 information, do not know what information they obtained or the
21 accuracy of the representations regarding that information.
22 I'm just completely in the dark about that.

23 MR. GREIM: Your Honor, this is Mr. Greim, if I
24 could quickly respond on this information, this thing about
25 notice. First of all, we understand that both Google and

1 GoDaddy notified these account holders when they send out the
2 -- when they received the subpoenas. And, number two, of
3 course, we are sending notice of all of these to our opposing
4 counsel Eastern Profit and remember, Your Honor, Eastern
5 Profit here -- I mean there is an attorney in the slot of
6 Eastern Profit that is our friends at Pepper Hamilton and
7 before that Mr. Grendi. Those attorneys though remember have
8 -- Eastern Profit has appointed Golden Spring for purposes of
9 actually running this litigation. And so the context there is
10 Golden Spring.

11 Remember when we gave notice of trying to serve
12 Karin Maistrello who -- you know, that went only to Eastern
13 Profit and yet Ms. Maistrello resigned within about 24 hours
14 of that notice. I don't need to go into that whole issue
15 again, but I think it -- I mean, frankly, I'm not sure how --
16 it's --

17 THE COURT: Counsel?

18 MR. GREIM: [inaudible].

19 THE COURT: Counsel, I have another conference in
20 another case at 12 o'clock.

21 MR. GREIM: Okay. I'll stop.

22 THE COURT: Thank you. I would like to -- it sounds
23 to me like this should boil down to the following information,
24 okay. It should boil down to for various accounts that have
25 been identified, assuming there's a plausible argument of

1 relevance regarding the entity whose account it is, it should
2 boil down to who's the registrant of the account and what is
3 the technical information associated with the registrant,
4 meaning what is the registrant's stated contact information.
5 You know, in other words, this is the account information as
6 the subscriber or as the registrant. This is the account
7 information I am providing. I am providing this -- I don't
8 know if they provide an IP address or if they provide an e-
9 mail or they provided something, a name, a contact, something
10 -- with the information they provide so it can be matched up
11 to say, oh look, these accounts have a common registrant,
12 these accounts were set up through a common IP address, these
13 accounts are linked not, you know, overtly but if you look
14 behind the scenes you can see that whoever set it up, you
15 know, and is in charge of the account is connected to somebody
16 else who's in charge of another account.

17 Beyond that, I don't really hear a very strong
18 argument for, you know, why the other kinds of information is
19 relevant. When you're talking about billing records, if you
20 have basic account registrant information, presumably that
21 basic account registrant information says I'm the registrant,
22 if there's a bill, you send it to me. You don't need copies
23 of the bills, you don't need copies of where they go. You
24 have that basic information as to who stands behind the
25 account. And it sounds like that's the core of what's being

1 looked for here.

2 The idea of how many times account were accessed by
3 people and whether there are reports about these accounts that
4 are generated and so one and so forth I think is going beyond
5 the core information. But I will say, Mr. Greim, when you say
6 I'm looking for registration information and that's really all
7 I'm looking for and then you go on with the details of what
8 that could include and you start talking about reports of
9 abuse and things like this, you know, you're going well beyond
10 registration information, who is it and were the accounts
11 associated with the registrant that they provide to Google
12 when they set up the account.

13 Now, assuming I limit these subpoenas to that, who
14 is the registrant, what are the account that are provided by
15 the registrant as their contact info for Google, for AT&T,
16 whatever, when they set it up, not all the many phone numbers,
17 not all the many locations, but just what is the information
18 provided by the registrant as part of the registration, which
19 may or may not provide an IP address. I'm not quite sure if
20 that does, but perhaps that IP address for the registrant
21 through which the account was registered.

22 For the counsel who are on the phone representing
23 non-parties and I haven't heard anything, Mr. Gavenman yet, I
24 apologize for that, what is your response to that if I were to
25 so limit these subpoenas?

1 MR. GAVENMAN: This is Mr. Gavenman. I'll speak
2 first if you don't mind. So the only one that I'm here to
3 quash is the e-mail about Mr. Je's personal e-mail account.
4 My understanding at the beginning of the call is that you were
5 quashing that in its entirety because of timeliness. Is that
6 fair?

7 THE COURT: Well, there were -- no -- yes on that.
8 On the GoDaddy -- I'm sorry, on the Google subpoena or Gmail
9 that was dated November 26th, I'm quashing that in its
10 entirety as untimely. But Mr. Je I thought was a targeted
11 individual on one of these GoDaddy subpoenas, although perhaps
12 not based on what Mr. Greim has now said. I had thought from
13 the information that we were given that he was somehow
14 connected to one of those.

15 ME. GAVENMAN: Well, that's what brings me to my
16 next point is my understanding is there's a host of subpoenas
17 sent out on the 26th of November but had been targeting my
18 client in sort of [indiscernible] ways and asked Mr. Greim
19 about these other kinds of subpoenas. He only sent me the one
20 directed at Mr. Je's Gmail.

21 I think there may have been something to LinkedIn,
22 in fact I'm fairly certain there are as referenced in one of
23 the letters from Mr. Greim, Twitter, other things that were,
24 you know, targeting Mr. Je but not, you know, in a direct way.
25 But I think those were also not on November 26. And so to the

1 extent we can just resolve this by perhaps issuing a
2 protective order saying that all of those subpoenas, various
3 subpoenas issued on November 26th are untimely and Strategic
4 Vision cannot seek to enforce those, I think that would clear
5 everything up. I don't believe there's anything issued before
6 November 26th that my client is, you know, trying to
7 challenge.

8 THE COURT: Well, that I'm happy to do because
9 subpoenas issued on November 26th, Mr. Greim, I would consider
10 untimely. And even if you've already received information,
11 you know, I don't know that you gave the non-parties fair
12 opportunity to respond since they don't even seem to know
13 about them and you shouldn't have been going off issuing
14 subpoenas November 26th.

15 MR. GREIM: Your Honor, the portions though who are
16 going to be complying with those subpoenas are not objecting
17 that they only had, you know, X number of days.

18 THE COURT: I am still in charge of supervising
19 discovery in this case and I'm still in charge of setting
20 discovery limits in terms of time frame. And you knew the
21 discovery deadline wasn't November 29th and subpoenas served
22 November 26th are untimely. And whether they object or not,
23 it's still within the authority of the Court to enforce
24 compliance with scheduling set by the Court for discovery.
25 Discovery includes party and non-party discovery. They are

1 untimely. Understood?

2 MR. GAVENMAN: Your Honor, this is Mr. Gavenman
3 again. I did bring this up to Mr. Greim before filing our
4 motion to quash and asked him to withdraw the subpoenas to Mr.
5 Je on that basis, on a number of bases but one of them being
6 it was untimely and he refused.

7 THE COURT: Okay. Let's move on. Any subpoenas
8 served November 26th --

9 MR. GAVENMAN: [Indiscernible] attorney's fees, Your
10 Honor.

11 THE COURT: Any subpoenas --

12 MR. GAVENMAN: I request for attorney's fees.

13 THE COURT: Any subpoenas served November 26th I'm
14 considering untimely. Mr. Greim, they are untimely. They are
15 considered quashed whether the motions were made or not
16 because the Court has the inherent authority to supervise its
17 own discovery schedule and enforce it. All right? And --

18 MR. GAVENMAN: Could I just renew my request for
19 attorney's fees on that basis?

20 THE COURT: I'm denying all requests for sanctions.

21 MR. GAVENMAN: Okay.

22 THE COURT: But I am directing Mr. Greim to
23 withdrawn any subpoenas that are still out there that were
24 served on or after November 26th. I don't know if there were
25 any served on November 25 or November 24, but you know you're

1 on notice, Mr. Greim, you have to act in good faith here. And
2 if you know that there were some that were served, you know,
3 less than ten days before the close of discovery which would
4 be under any measure, you know, reasonable and sort of minimum
5 under most circumstances or reasonable notice to a non-party,
6 you know, you're cutting it too close and I consider those
7 untimely.

8 MR. GREIM: Very well, Your Honor. We will notify
9 those who received subpoenas regardless of whether they have
10 counsel that those are all withdrawn.

11 THE COURT: Okay. And if you already got material
12 on any of those, you know, you need to treat those as, you
13 know, invalid subpoenas through which you obtained the
14 information. All right?

15 Let's talk about the other ones, though. With
16 respect to the other ones served October 31 -- October 22,
17 October 31, and November 4, those seems to be the operative
18 dates, I'd like to hear from Mr. Harmon or anybody else who
19 wants to be heard including, Mr. Gavenman, if you want to be
20 heard on any of those with respect to your response if I were
21 to allow the subpoenas to go forward but limit them to the
22 registrant information that I described, who registered it and
23 what account information they provided in connection with the
24 registration for contact, for billing, and if there is an IP
25 address through which the registration is made, the IP address

1 from which the registration is made.

2 MR. HARMON: Thank you, Your Honor. This is Mark
3 Harmon. I would have no objection to that if I would request
4 that I impose on the Court the compliance was sent initially
5 to the Court to ensure that inadvertently none of these
6 responding parties provided the scope and breadth of the
7 information that was requested in the subpoenas so that we can
8 be sure that the response is limited to what Your Honor is
9 proposing. And I'd also like to know whether in addition to
10 any of these subpoenas other subpoenas have been served
11 respecting information any of the parties I -- non-parties I
12 represent so that we can ensure that there are not other
13 subpoenas out there that wouldn't be covered by this ruling.

14 THE COURT: Well, I don't really want to undertake
15 to -- I don't really want to volunteer to review the documents
16 that come in by way of subpoenas. But I will do the
17 following: one, to the extent there are any other subpoenas
18 out there that have not been specifically objected to by
19 counsel on this call because, Mr. Greim, you seem to think
20 everything is connected and everything goes back to Mr. Guo
21 and we have Mr. Guo's counsel.

22 So any subpoena you served you think has some
23 connection to Mr. Guo, I'm going to ask you please to notify
24 Mr. Harmon of -- and for that matter Mr. Gavenman because if
25 it doesn't go back to Mr. Guo, you seem to think it goes to

1 Mr. Je or Golden Spring or some related entity that we have
2 counsel for -- notify them of the other subpoenas that have
3 been served and whether they've been responded to or they've
4 not been responded to or they've been withdrawn because there
5 may be other ones that do implicate their clients' interests
6 and they just did not know about.

7 Number two, I'm going to limit the subpoenas as I
8 described. I'm going to write out an order, it might be a
9 text order, that so specifies the information for clarity's
10 sake. I don't really know how IP addresses fit into
11 registration information, but it seems to me that the
12 providers might know the IP address associated with the
13 formation of the account and that I would allow.

14 And you are an officer of the Court, and you are
15 duty-bound to make sure that what happens is now in compliance
16 with the Court's order. And if you get in additional
17 information, you're duty-bound to say something about it and
18 not just say, oh great, I got in additional information even
19 though I didn't ask for it. You know, your obligation is to
20 make sure the providers understand the limits, send them a
21 copy of my order. It may, you know, behoove you to be in
22 touch with counsel for both Eastern Profit and for the non-
23 parties who are on this call and let them know what comes in
24 in response to the subpoenas. All right?

25 MR. HARMON: Your Honor, can I -- I'm sorry to

1 interrupt. Can I ask that the order require that any
2 responsive documents be sent to us as well directly so that we
3 have them in real time? I'm concerned about inadvertent
4 disclosure because of the scope of these subpoenas is so
5 broad.

6 THE COURT: I understand. Mr. Greim, do you have an
7 objection to sharing the information that comes in or making
8 it available for inspection by counsel who are on this call?

9 MR. GREIM: Your Honor, I don't have an objection.
10 I don't think it'll be voluminous. We have a protective order
11 in this case anyway that -- I mean I suppose if it's actually
12 their information and I mean I was --

13 THE COURT: I'm going to instruct that if
14 information comes in pursuant to any subpoenas that you have
15 served that in any way relate to Mr. Guo or Golden Spring or
16 ACA or Je or any of these related people and entities, in your
17 way are related, that you let counsel on this call know that
18 you've subpoenaed someone, know that what's come in, and make
19 the documents available to them for inspection if not
20 providing copies directly, all right?

21 MR. GREIM: Your Honor, that's understood. I want
22 to point out one thing, though. The -- you might remember
23 what I told you about the Cloudflare discovery. The most
24 important evidence there, you know, because sometimes there
25 are administrators set up for these accounts and then we see

1 where -- you know, from where those administrators are
2 accessing the account.

3 THE COURT: I'm saying no to that and I have my 12
4 o'clock call coming in. I have ruled as to the scope of the
5 subpoenas that I will allow. As for anything else that has
6 already come in, you're going to share the info. And if there
7 is an objection to the use of something that has come in and
8 counsel on this call want to object to the use of that
9 information, you can let me know.

10 MR. GREIM: Your Honor, the only thing left is AT&T
11 though.

12 THE COURT: I'm going to say no with respect to all
13 of these call logs and SMS records and everything. I'm not
14 sure what these phone numbers are and what you're looking for,
15 but this seems to me to be -- you know, looking for
16 everybody's phone records seems to me overbroad.

17 MR. GREIM: Your Honor, we have told our opponents
18 that we are willing to limit this to international calls.
19 That is how we know that William Je and others are contacting
20 the mainland. So we would propose limiting it as to only
21 that, and AT&T actually has a report they can issue that's
22 only the international lines.

23 THE COURT: I'm sorry. So what is exactly the limit
24 because you're seeking a lot of information in there. What
25 exactly are the limits to what you are seeking? You want any

1 report of international calls made to or from these numbers --

2 MR. GREIM: That is correct, Your Honor.

3 THE COURT: -- for some period of time?

4 MR. GREIM: I'm sorry.

5 MR. HARMON: Mr. Guo has family in China. He grew
6 up in China. Of course he's going to be making phone calls to
7 China. What difference does it make if he's calling his
8 family and why should they have information about calls,
9 private personal calls he makes to his family? I think that's
10 going to be instructive of what -- of anything having to do
11 with the claim of fraud in this case. That's why we haven't
12 agreed to that. It doesn't go to prove anything --

13 THE COURT: All right. Mr. Greim, Mr. Guo concedes
14 that he makes calls into and out of Mainland China. He
15 disagrees as to why. He says he has family. What will a call
16 tell you, the fact that a call was made internationally, what
17 will it tell you if he is already conceding he has family in
18 China and speaks to them?

19 MR. GREIM: Okay. Well, this is -- I mean, Your
20 Honor, we've been relying on testimony that dissidents do not
21 dare to make calls over lines like this that can be openly
22 monitored.

23 THE COURT: Did Mr. Guo say he did not make phones
24 calls on these lines to anyone in China because he's a
25 dissident, it would be dangerous to do so and you want to try

1 to prove him wrong? Is that what happened?

2 MR. HARMON: No, he did not say that. No, he did
3 not testify to that, Your Honor.

4 MR. GREIM: No, I'm saying somebody -- I'm saying
5 another witness has testified to that.

6 THE COURT: Well, did you ask Mr. Guo about whether
7 he made calls to China and if so, what numbers he used,
8 whether they were protected lines?

9 MR. HARMON: No, he did not ask those questions.
10 [Indiscernible] deposition.

11 MR. GREIM: I was just trying to answer your
12 question, Your Honor. I'm sorry.

13 THE COURT: Mr. Greim, did you make any inquiry of
14 Mr. Guo about his practice with respect to making calls to
15 China or receiving calls from China?

16 MR. GREIM: [Inaudible].

17 THE COURT: Anything at all? All right. And you go
18 in the first instance to the person you have in front of you
19 for deposition, and you don't start prying into their phone
20 records separate and apart. It's a non-party. In light of
21 the fact that counsel to Mr. Guo says that he does make calls
22 into China and receives calls from China, I don't see the
23 relevance. That subpoena is quashed, and I have to take my
24 next call. And I think we're at the end of this. Thank you
25 all.

MR. HARMON: Thank you, Your Honor.

* * * * *

1 I certify that the foregoing is a court transcript from
2 an electronic sound recording of the proceedings in the above-
3 entitled matter.

4
5 Shari Riemer

6 Shari Riemer, CET-805

7 Dated: January 20, 2020
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